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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARYIn the Matter of)
)
Review of the Commission's)
Rules and Policies)
Affecting the Conversion)
To Digital Television)
)

MM Docket No. 00-39

To: The Commission

COX BROADCASTING, INC.
REPLY AND SUPPLEMENT TO RESPONSE TO
PETITIONS FOR RECONSIDERATION

Cox Broadcasting, Inc. ("Cox"), by its attorneys and pursuant to 47 C.F.R. § 1.429(g), hereby files this reply supplementing comments previously submitted supporting several petitions for reconsideration of the Commission's *Report and Order* in the above-captioned proceeding, in which the Commission adopts several new rules intended to facilitate the digital transition.¹ In its earlier comments, Cox asked the Commission to defer implementing several premature and burdensome regulations at the nascency of digital television – namely the proposed replication, community coverage, and channel election requirements. Cox respectfully wishes to take this opportunity to illustrate further the types of problems associated with the

¹ Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television, *Report and Order and Further Notice of Proposed Rulemaking*, MM Docket No. 00-39 (rel. Jan. 19, 2001); 66 Fed. Reg. 9973 (Feb. 13, 2001) ("*Report and Order*"). This response is timely filed within fifteen days after the date of publication of the petitions for reconsideration in the *Federal Register*. See 47 C.F.R. §§ 1.429(f), 1.4(b) (2000).

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proposed channel election deadline, and, in doing so, demonstrate the need for monitoring digital operations for low VHF channels.

Initially, the Commission declined to include Channels 2-6 in the DTV core spectrum, based on its own finding that these channels are subject to several technical penalties, including higher ambient noise levels and concerns of possible interference with FM service.²

Nonetheless, due to spectrum scarcity and the request of many broadcasters, the Commission decided without further study on reconsideration to include Channels 2-6 in the core spectrum.³ Digital operation on these channels is capped at 10 kW in Zone I and 45 kW in Zone II,⁴ and field results so far as measured in Charlotte and in Cleveland suggest that these power levels, as many expected, may be inadequate to overcome ambient noise. Moreover, relatively few DTV stations thus far are operating on these channels, making it difficult to evaluate how stations can robustly transmit digital signals from Channels 2-6.

Cox station WSB(TV) (Atlanta, Georgia) operates on NTSC Channel 2 and DTV Channel 39. Given the strong brand of WSB(TV)'s traditional channel, Cox has a powerful interest in selecting Channel 2 for its permanent digital channel. Yet, given the present circumstances surrounding digital operation on low VHF channels, Cox essentially would be making a blind guess about the superiority of either channel if forced to elect a permanent one today. Unfortunately, even though the Commission's election date is not until December 31, 2003, at that point Cox and other broadcasters in similar circumstances still will not have had

² Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service, *Memorandum Opinion and Order on Reconsideration of the Sixth Report and Order*, 13 FCC Rcd 7418, ¶ 34 (1998) ("*DTV Technical Recon*").

³ *Id.* at ¶ 42.

⁴ *Report and Order* at ¶ 74.

sufficient experience to elect a permanent channel.⁵ For example, even by the proposed election date, WSB likely will not have operated digitally on Channel 2, and Cox is unaware of any general mechanisms for comparative field analysis of digital operation on broadcasters' paired channels.

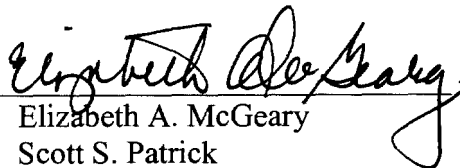
Cox station KTVU(TV) (Oakland, California) further illustrates the difficulties faced by broadcasters. KTVU(TV) operates on NTSC Channel 2 and was assigned out-of-core DTV Channel 56. Presumably, the Commission would force KTVU(TV) to operate permanently on Channel 2, with what would be its third DTV transmission system, without even the benefit of testing digital operations on Channel 2. The station currently operates, as permitted, at reduced power. Under the new rules, KTVU soon would have to purchase a new transmission system to operate at full power or else lose replication protection. A third transmission system will have to be purchased at considerable expense upon commencement of DTV operations on Channel 2, yet KTVU will not have had sufficient experience with digital operations on Channel 2 to make an informed decision about such a significant investment. Other broadcasters undoubtedly will face similar obstacles in selecting a permanent channel.

In theory, an early permanent channel election date might offer some benefits to prospective auction bidders and displaced broadcasters, but in practice it would be premature to force broadcasters to elect a permanent channel in 2003. As a broadcaster already operating six DTV stations, Cox knows that too many questions about digital service remain to establish channel election deadlines at this time. Thus, the Commission should postpone the election of permanent channels.

⁵ *Id.* at ¶ 14.

In the meantime, to help broadcasters make an informed decision at the point when election deadlines are set, the Commission should study higher power digital operation on low VHF channels and allow broadcasters to conduct their own studies on a case-by-case basis.

Respectfully submitted,
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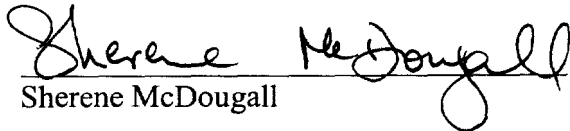
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